



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Revise Collection 3038-0096 (Swap Data Recordkeeping and Reporting Requirements) and Collection 3038-0070 (Real-Time Public Reporting)

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the proposed revision of collections of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed revision of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the collections of information mandated by certain Commission regulations related to Swap Data Recordkeeping and Reporting Requirements and Real-Time Public Reporting.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “Swap Data Recordkeeping and Reporting Requirements, OMB Control No. 3038-0096,” and/or “Real-Time Public Reporting, OMB Control No. 3038-0070,” as applicable, by any of the following methods:

- The Agency’s website, at <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Tom Guerin, Special Counsel, Division of Data, at (202) 836-1933 or tguerin@cftc.gov, or Paul Chaffin, Attorney Advisor, Division of Data, at (202) 418-5185 or pchaffin@cftc.gov, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.¹

¹ 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

Title: “Swap Data Recordkeeping and Reporting Requirements” (OMB Control No. 3038-0096) and “Real-Time Public Reporting” (OMB Control No. 3038-0070). This is a request for revisions to currently approved information collections.

Abstract: Pursuant to section 2(a)(13)(G) of the Commodity Exchange Act (“CEA”), all swaps, whether cleared or uncleared, must be reported to SDRs.² CEA section 21(b) directs the Commission to prescribe standards for swap data recordkeeping and reporting.³ Part 45 of the Commission’s regulations implements the swap data reporting rules. Section 2(a)(13) of the CEA authorizes and requires the Commission to promulgate regulations for the real-time public reporting of swap transaction and pricing data.⁴ Part 43 of the Commission’s regulations implements the real-time public reporting rules. Regulations 45.14 and 43.3(e) require that if a SEF, DCM, or reporting counterparty determines that it will fail to timely correct an error in swap data or swap transaction and pricing data, respectively, it shall notify staff of its determination that it will fail to timely correct the error.⁵

On June 10, 2022, DOD published a “Swap Data Error Correction Notification Form,” which sets out the form and manner for notifications pursuant to regulations 45.14 and 43.3(e) and enumerates information sufficient to provide an initial assessment of the scope of the error or errors that were discovered and any initial remediation plan for correcting the error or errors, if an initial remediation plan exists.⁶ The Swap Data Error Correction Notification Form requests, among other things: (1) identifying information for the swap execution facility (“SEF”), designated contract market (“DCM”), or reporting counterparty making the notification; (2) clarification whether errors relate to previously reported and/or unreported swaps; (3) unique swap identifiers

² 7 U.S.C. 2(a)(13)(G).

³ See 7 U.S.C. 24a(b)(1)-(3).

⁴ 7 U.S.C. 2(a)(13)(E).

⁵ 17 CFR 45.14(a)(1); 17 CFR 43.3(e)(1). Commission regulations referred to herein are found at 17 CFR Ch. 1.

⁶ See CFTC Letter 22-06.

and/or unique transaction identifiers for transactions representative of the error or errors; (4) the asset classes to which the error or errors pertain; (5) the number of transactions impacted by the error or errors; (6) the percentage of the SEF, DCM, or reporting counterparty's reported swap transactions affected by the error and that percentage for each impacted asset class; (7) the date the SEF, DCM, or reporting counterparty discovered the error or errors and a description of how discovery came about; (8) an indication whether the issues underlying the error or errors are still producing new errors; and (9) any initial remediation plan or, if no initial remediation plan exists, an indication of when the SEF, DCM, or reporting counterparty expects to have a remediation plan. The Swap Data Error Correction Notification Form, which will be required for error data notifications after December 5, 2022, is appended to CFTC Letter 22-06 and is available as a stand-alone form on the Commission's website.⁷

As the Swap Data Error Correction Notification Form provides the form and manner and specifies sufficient information required to satisfy previously-approved information collections under regulations 45.14 and 43.3(e), the Commission does not believe it imposes any new collection of information. The information collections under Information Collection 3038-0096 and Information Collection 3038-0070 are each necessary to obtain information detailing the cause, nature, and scope of swap data errors.

With respect to the collections of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

⁷ See Swap Data Error Correction Notification Form, available at https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/DF_17_Recordkeeping/index.htm.

- The accuracy of the Commission’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.⁸

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

- Collection 3038-0096 (Swap Data Recordkeeping and Reporting)

Burden Statement: The Commission estimates that the respondent burden for this collection is as follows:

⁸ 17 CFR 145.9.

Respondents/Affected Entities: SEFs, DCMs, and reporting counterparties

Estimated Number of Respondents: 1,742

Estimated Average Burden Hours Per Respondent: 6⁹

Estimated Total Annual Burden Hours: 10,452

Frequency of collection: As needed.

The Commission does not anticipate any capital costs or annual operating and maintenance costs associated with this collection.

- Collection 3038-0070 (Real-Time Reporting)

Burden Statement: The Commission estimates that the respondent burden for this collection is as follows:

Respondents/Affected Entities: SEFs, DCMs, and reporting counterparties

Estimated Number of Respondents: 1,742

Estimated Average Burden Hours Per Respondent: 6¹⁰

Estimated Total Annual Burden Hours: 10,452

Frequency of collection: As needed.

The Commission does not anticipate any capital costs or annual operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 17, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

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⁹ The Commission estimates that each SEF, DCM, and reporting counterparty will, on average, need to provide notice to the Commission under regulation 45.14(a) once per year and that each instance will require 6 burden hours.

¹⁰ The Commission estimates that each SEF, DCM, and reporting counterparty will, on average, need to provide notice to the Commission under regulation 43.3(e) once per year and that each instance will require 6 burden hours.